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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,528	08/28/2003	Haifeng Liu	GP-301707	6799
7590	01/26/2005		EXAMINER	
CHRISTOPHER DEVRIES General Motors Corporation Legal Staff, Mail Code 482-C23-B21 P.O. Box 300 Detroit, MI 48265-3000			NGUYEN, TAN QUANG	
			ART UNIT	PAPER NUMBER
			3661	
DATE MAILED: 01/26/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

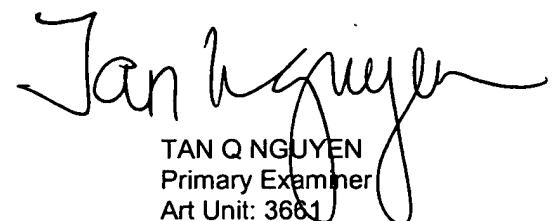
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20050121

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Commissioner for Patents



TAN Q. NGUYEN  
Primary Examiner  
Art Unit: 3661

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/650,528	LIU, HAIFENG
Examiner	Art Unit	
TAN Q NGUYEN	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 28 August 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-10 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/28/03.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## DETAIL ACTION

### ***Notice to Applicant(s)***

1. This application has been examined. Claims 1-10 are pending.
2. The prior art filed on August 28, 2003 has been considered.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 5-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Morisawa (5,983,154).

5. As per claim 1, Morisawa disclose an engine control system for adjusting vehicle drivability based on an input from a vehicle operator which includes a transmission (see figure 1, item 2), a torque converter (see column 3, line 53), a throttle (see figure 1, item 30), a selector switch having a plurality of selector settings corresponding to a plurality of drive modes (see figure 1, item 4), and a controller for communicating with the selector and utilizing predetermined transmission shift points, torque converter and throttle position progression data based on a current selector setting chosen by the vehicle operator (see at least figures 2, 3, column 4, line 17 to column 5, line 25).

6. As per claim 2, Morisawa also disclose a display for displaying a current mode selected (see at least column 5, lines 48-51).
7. As per claim 3, Morisawa disclose that the selector switch 4 which is an electrically-actuated switch since it electrically provide input to the electronic control unit 3 (see column 3, line 66 to column 4, line 1).
8. As per claim 5, Morisawa further disclose that plurality of selector setting also based on driver input patterns to the throttle (see at least figure 6, step 23).
9. With respect to claims 6-10, the limitations of these claims have been noted in the rejections above. Morisawa further disclose that the plurality of drivability modes corresponding to various degrees of vehicle acceleration (see at least figure 6, step 24 and column 5, lines 26-36). They are therefore considered rejected as set forth above.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morisawa as applied to claims 1-3 and 5-10 above, and further in view of Ehrenhardt et al. (6,019,702).

13. Morisawa disclose the claimed invention as discussed above except that the selector switch is a toggle switch. However, such toggle switch is one type of switch which is well known and used in the vehicle art, as shown in at least figure 1, item 75 of the Ehrenhardt et al. reference. It would have been obvious to one ordinary skill in the art to use the toggle switch as taught in the Ehrenhardt et al. as the selector switch for the operator to easily select the desired mode selection by just simply toggle the switch.

### ***Conclusion***

14. All claims are rejected.

15. The following references are cited as being of general interest: Okuda (5,337,239), Nakashima (5,544,053), Hara et al. (5,803,197), Nishimura et al. (4,898,138), Mori et al. (6,244,986), and Bidner (2002/0143455).

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Tan Nguyen, whose telephone number is (703) 305-9755. The examiner can normally be reached on Monday-Thursday from 5:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black, can be reached on (703) 305-8233.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to the Official Fax Center:

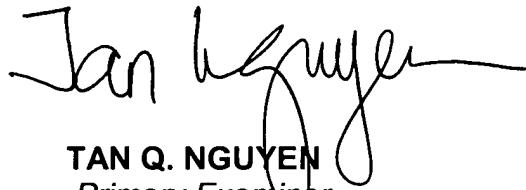
(703) 872-9306, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park V, 2451  
Crystal Drive, Arlington, VA., Seventh Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should  
be directed to the Group receptionist whose telephone number is (703) 308-1113.

Information regarding the status of an application may be obtained from the  
Patent Application Information Retrieval (PAIR) system. Status information for  
published applications may be obtained from either Private PAIR or Public PAIR.  
Status information for unpublished applications is available through Private PAIR only.  
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should  
you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free).

/tqn  
January 21, 2005



TAN Q. NGUYEN  
Primary Examiner  
Art Unit 3661